

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-521, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN SEVERANCE PAYMENTS; AMENDING SECTION 33-1004G, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN EARLY RETIREMENT INCENTIVE; REPEALING SECTION 33-1004G, IDAHO CODE, RELATING TO AN EARLY RETIREMENT INCENTIVE; AMENDING SECTION 33-1004H, IDAHO CODE, TO REVISE PROVISIONS RELATING TO EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS; AMENDING SECTION 33-1004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO INSTRUCTIONAL STAFF ALLOWANCE; TO PROVIDE FOR ALTERNATIVE USES OF CERTAIN SCHOOL BUILDING MAINTENANCE FUNDS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1619, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICTS MAY OFFER VIRTUAL SCHOOL INSTRUCTION, TO PROVIDE THAT SCHOOL DISTRICTS MAY OFFER A BLEND OF VIRTUAL AND TRADITIONAL INSTRUCTION AND TO PROVIDE FOR THE COUNTING AND REPORTING OF AVERAGE DAILY ATTENDANCE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-521, Idaho Code, be, and the same is hereby amended to read as follows:

33-521. EMPLOYEE SEVERANCE IN CONSOLIDATED DISTRICT. The board of trustees of any school district newly formed within the last twelve (12) months through the consolidation of two (2) or more school districts may offer a one (1) time severance payment to a maximum of ten percent (10%) of the employees that were previously employed by the separate school districts. Such severance offers shall be made entirely at the discretion of the board of trustees, and shall not be bound by custom, seniority or contractual commitment. Employees are under no obligation to accept a severance offer. Any employee accepting a severance payment shall not be eligible for reemployment by the school district for a one (1) year period thereafter.

The severance payment shall consist of fifty-five percent (55%) of the salary-based apportionment funds allocated for the employee in the last year, plus any applicable state paid employee benefits. ~~Such severance shall be reduced by one half (1/2) for any employee who is simultaneously receiving a disbursement of early retirement incentive funds, pursuant to section 33-1004G, Idaho Code.~~ The state department of education shall reimburse eligible school districts for one hundred percent (100%) of such costs, upon application by the school district.

SECTION 2. That Section 33-1004G, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004G. EARLY RETIREMENT INCENTIVE – ADMINISTRATIVE STAFF EXCLUDED. (1) Except as provided in subsection (8) of this section, each certificated employee of an Idaho public school district as defined in section 33-1001(16), Idaho Code, is eligible for an early retirement incentive, provided they meet the following criteria:

(a) The employee has completed a minimum of ten (10) years of continuous full-time certified employment, which may include time spent on a sabbatical leave, in Idaho public school districts at the time of application.

(b) The employee is not eligible for unreduced service, early or disability retirement from the public employee retirement system of Idaho at the time of application.

(c) The employee is fifty-five (55) years old before September 1 of the year the application is made; provided that persons turning fifty-six (56) years old or greater between August 15 and 31, 2000, will be eligible to receive the retirement incentive option percentage provided in this section that reflects their age on August 15, 2000.

(d) The employee submits his/her application to the state superintendent of public instruction on or before April 1 of the year of application.

(e) The employee is contracted with an Idaho public school district for the entire school year during the year of application and has not been terminated or on a leave of absence for the current or upcoming school year.

(2) (a) Full-time qualifying applicants shall receive as a one (1) time incentive one-half of the following amount of the employee's qualifying salary allocation as provided in section 33-1004E, Idaho Code:

at 55 years of age	55% of allocation
at 56 years of age	50% of allocation
at 57 years of age	45% of allocation
at 58 years of age	40% of allocation
at 59 years of age	30% of allocation
at 60 years of age	30% of allocation
at 61 years of age	20% of allocation
at 62 years of age	20% of allocation
at 63 years of age and over	0% of allocation

(b) Certified employees working less than full-time in the application year will have the incentive payment prorated according to their full-time equivalent (FTE) percentage.

(c) Incentive payments for certified employees not placed on the experience and education multiplier table as provided in section 33-1004A, Idaho Code, will be calculated using the BA column of the table.

(3) Incentives and the employer's share of FICA benefits shall be paid by the state department of education to the Idaho public school district with which the applicant was last contracted on or before July 31 of the year of application and acceptance.

(4) Incentives shall be considered additional compensation flowing from the employment relationship and subject to federal and state tax laws. Incentives shall not be considered salary for purposes of the public employee retirement system.

(5) Any employee receiving an early retirement incentive as provided in this section shall not be eligible for future employment with an Idaho school district where such employment would again qualify him/her for participation in the state retirement system.

(6) Any applicant choosing to withdraw their application must notify the state superintendent of public instruction in writing no later than June 20 in the year of application.

(7) A special application of the early retirement incentive shall supersede the limitations of this section to the extent necessary to comply with this subsection. An otherwise qualified certificated employee who becomes medically unable to work prior to July 1 of any year shall be eligible to apply for the early retirement incentive for which the employee would have been eligible retroactive to April 1.

(8) Administrative staff shall not be allowed to participate in the early retirement incentive program as provided in this section and such staff are hereby excluded from participation in the program.

SECTION 3. That Section [33-1004G](#), Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 33-1004H, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004H. EMPLOYING RETIRED TEACHERS AND ADMINISTRATORS. (1) Notwithstanding the provisions of section 33-514, 33-1271 or 33-1273, Idaho Code, school districts may employ certificated school teachers and administrators who are receiving retirement benefits from the public employee retirement system of Idaho, except those who received benefits under the early retirement program previously provided in section 33-1004G, Idaho Code, by the state in positions requiring such certification, as at-will employees. Any employment contract between the retiree and the school district shall be separate and apart from the collective bargaining agreement of the school district.

(2) Retirees employed under this section shall accrue one (1) day per month of sick leave, with no annual sick leave accumulation unless additional sick leave is negotiated between the candidate and the school district at the time of employment. No sick leave accrued under this section qualifies for unused sick leave benefits under section 33-1228, Idaho Code.

(3) School districts are not required to provide health insurance or life insurance benefits to persons employed under this section. Post-termination benefits may be negotiated between the school district and the certificated employee at the time of rehiring but in no event can the parties affect or attempt to affect the provisions governing the public employee retirement system.

SECTION 5. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15 apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002(6)(a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (5)(f) and (g) of this section. If the district

does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except as provided in subsection (5)(f) and (g) of this section;

(3) Determine the administrative staff allowance by multiplying the support units by .075;

(4) Determine the classified staff allowance by multiplying the support units by .375;

(5) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and (4) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and (3) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (i) and (ii) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional instructional staff allowances for each such separate secondary school.

(e) Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(f) A district may utilize up to five percent (5%) of the moneys associated with positions funded pursuant to subsection (2) of this section to defray the cost of providing virtual education coursework, including virtual dual credit coursework, without a reduction in the number of funded positions being imposed.

(g) For the period July 1, 2009, through June 30, 2011, only, a district may shift up to two and sixty-three hundredths percent (2.63%) of the positions funded pursuant to

1 subsection (2) of this section to federal funds, without a reduction in the number of
 2 funded positions being imposed.

3 (6) In the event that the staff allowance in any category is insufficient to meet
 4 accreditation standards, a district may appeal to the state board of education, demonstrating the
 5 insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to
 6 be included within the staff allowance to meet accreditation standards. Such a waiver shall be
 7 limited to one (1) year, but may be renewed upon showing of continuing justification.

8 SECTION 6. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the
 9 period July 1, 2009, through June 30, 2010, only, an amount of local maintenance match
 10 moneys normally required to be allocated for the maintenance and repair of student-occupied
 11 buildings may be spent on other one (1) time, nonpersonnel costs, at the discretion of the
 12 school district. Said amount shall be determined by the State Department of Education as
 13 follows:

14 (a) Subtract from the local maintenance match requirement all plant facility levy funds
 15 levied for tax year 2009.

16 (b) Subtract from the balance of any funds remaining after the subtraction provided
 17 for in subsection (a) of this section, any additional funds necessary to fully remediate
 18 all recommendations and code violations identified in the most recent inspection of each
 19 student-occupied building conducted by the Division of Building Safety, excluding any
 20 recommendations for which the least expensive remediation solution is the replacement of the
 21 building.

22 (c) Divide the balance of any funds remaining after the calculation provided for in
 23 subsection (b) of this section, by two (2).

24 School districts shall furnish information pursuant to the provisions of this section, as
 25 may be required by the State Department of Education.

26 SECTION 7. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended
 27 by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1619,
 28 Idaho Code, and to read as follows:

29 33-1619. VIRTUAL EDUCATION PROGRAMS. School districts may offer instruction
 30 in the manner described for a virtual school in section 33-5202A, Idaho Code. For programs
 31 meeting such definition, the school district may count and report the average daily attendance
 32 of the program's students in the manner prescribed in section 33-5208(8)(b), Idaho Code.
 33 School districts may also offer instruction that is a blend of virtual and traditional instruction.
 34 For such blended programs, the school district may count and report the average daily
 35 attendance of the program's students in the manner prescribed in section 33-5208(8)(b), Idaho
 36 Code. Alternatively, the school district may count and report the average daily attendance of
 37 the blended program's students in the same manner as provided for traditional programs of
 38 instruction, for the days or portions of days in which such students attend a physical public
 39 school. For the balance of days or portions of days, average daily attendance may be counted
 40 in the manner prescribed in section 33-5208(8)(b), Idaho Code.

41 SECTION 8. An emergency existing therefor, which emergency is hereby declared to
 42 exist, Sections 1, 2 and 4 of this act shall be in full force and effect on and after passage and
 43 approval, and retroactively to March 1, 2009. Section 3 of this act shall be in full force and

1 effect on and after January 1, 2010. The other sections of this act shall be in full force and
2 effect on and after July 1, 2009.